

Insurance (Amendment) Bill

Bill No. 28/2008.

Read the first time on 20th October 2008.

A BILL

intituled

An Act to amend the Insurance Act (Chapter 142 of the 2002 Revised Edition) and to make related amendments to the Administration of Muslim Law Act (Chapter 3 of the 1999 Revised Edition), the Central Provident Fund Act (Chapter 36 of the 2001 Revised Edition), the Conveyancing and Law of Property Act (Chapter 61 of the 1994 Revised Edition), the Co-operative Societies Act (Chapter 62 of the 1985 Revised Edition) and the Mental Capacity Act 2008 (Act 22 of 2008).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Insurance (Amendment) Act 2008 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 New Part III C

2. The Insurance Act is amended by inserting, immediately after section 49J, the following Part:

“PART III C

NOMINATION OF BENEFICIARIES

10 Interpretation of this Part

49K. In this Part, unless the context otherwise requires —

“Central Provident Fund” means the Central Provident Fund established under section 6 of the Central Provident Fund Act (Cap. 36);

15 “Central Provident Fund Board” means the Central Provident Fund Board constituted under section 3 of the Central Provident Fund Act;

“minimum sum” has the same meaning as in section 2(1) of the Central Provident Fund Act;

20 “relevant policy” means any life policy or accident and health policy, whether issued before, on or after the date of commencement of section 2 of the Insurance (Amendment) Act 2008, which —

(a) is issued by a registered insurer;

25 (b) is governed by Singapore law;

(c) provides death benefits;

(d) is effected by the policy owner on his own life;

(e) is not the subject of any trust created under section 73 of the Conveyancing and Law of Property Act (Cap. 61);

30 and

(f) is not an annuity purchased with the minimum sum under section 15(6C) of the Central Provident Fund Act;

“will” has the same meaning as in the Wills Act (Cap. 352).

Trust nomination

5 **49L.**—(1) This section shall not apply to any relevant policy which is —

10 (a) issued under the Dependants’ Protection Insurance Scheme established and maintained by the Central Provident Fund Board under section 41 of the Central Provident Fund Act (Cap. 36); or

15 (b) an investment made by a member of the Central Provident Fund under any scheme in accordance with any regulations made under section 77(1)(n) of the Central Provident Fund Act the proceeds or benefits (or any part thereof) of which the member is obliged to repay into the Central Provident Fund.

(2) Where the policy owner of a relevant policy who has attained the age of 18 years —

20 (a) nominates as the beneficiary or beneficiaries under the relevant policy his spouse, his children, his spouse and children or any of them;

(b) expresses in the nomination his intention to create a trust of the policy moneys in favour of the nominee or nominees; and

25 (c) makes the nomination, and indicates each nominee’s portion of the policy moneys, in such manner as may be prescribed by the Authority,

the nomination shall create a trust of the policy moneys in favour of the nominee or nominees.

30 (3) No nomination under subsection (2) shall be valid unless it provides for the disposition of all policy moneys under the relevant policy.

(4) Subject to subsection (5), all policy moneys subject to the trust created under subsection (2) shall not form part of the estate of the policy owner or be subject to his debts.

5 (5) If it is proved that the relevant policy was effected, and the premiums for the relevant policy were paid, with intent to defraud the creditors of the policy owner, the creditors shall be entitled to receive out of the policy moneys a sum equal to the premiums so paid.

10 (6) On the death of any nominee, the nominee's interest in the policy moneys shall, subject to any encumbrance created over, or any disposition of, the nominee's interest while the nominee was alive, form part of the nominee's estate.

(7) A policy owner may revoke a nomination under subsection (2) if, and only if, the prior written consent to the revocation has been obtained from —

15 (a) in a case where any trustee of the policy moneys is a person other than the policy owner —

(i) that trustee or, if there is more than one such trustee, any such trustee; or

(ii) so long as no nominee has died before the revocation —

20 (A) each nominee who has attained the age of 18 years; and

(B) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years;

25 (b) in any other case, so long as no nominee has died before the revocation —

(i) each nominee who has attained the age of 18 years; and

(ii) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years; and

30 (c) such requirements for the revocation as may be prescribed by the Authority are satisfied.

(8) Where a nomination under subsection (2) has been revoked in accordance with subsection (7) —

- (a) the trust created pursuant to the nomination shall be deemed to be revoked; and
- (b) the policy owner may make a new nomination under subsection (2) or section 49M(2).

5 (9) Where a nomination under subsection (2) has been made in respect of a relevant policy, a term or condition of the relevant policy may be varied, and an instruction of the policy owner in relation to the relevant policy (being an instruction which may directly or indirectly alter the benefits payable under the relevant policy) may be
10 executed by the registered insurer that issued the relevant policy, if, and only if, the prior written consent to the variation of the term or condition or to the execution of the instruction, as the case may be, has been obtained from —

15 (a) in a case where any trustee of the policy moneys is a person other than the policy owner —

- (i) that trustee or, if there is more than one such trustee, any such trustee; or
- (ii) so long as no nominee has died before the variation of the term or condition or the execution of the instruction,
20 as the case may be —

(A) each nominee who has attained the age of 18 years; and

(B) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of
25 18 years; or

(b) in any other case, so long as no nominee has died before the variation of the term or condition or the execution of the instruction, as the case may be —

- (i) each nominee who has attained the age of 18 years; and
- 30 (ii) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years.

35 (10) Any purported revocation of a nomination under subsection (2) in contravention of subsection (7), and any purported variation of any term or condition of a relevant policy in contravention of subsection (9), shall be void.

(11) Where a nomination under subsection (2) has been made in respect of a relevant policy, and the registered insurer that issued the relevant policy executes an instruction of the policy owner in contravention of subsection (9), the registered insurer shall be liable to each nominee for the loss suffered by the nominee (if any) as a result of the execution of the instruction.

(12) Subject to subsection (14), the policy owner —

(a) shall, in such manner as may be prescribed by the Authority, appoint one or more trustees of the policy moneys;

(b) may, in such manner as may be prescribed by the Authority, from time to time, appoint one or more new trustees of the policy moneys;

(c) may, in such manner as may be prescribed by the Authority, revoke the appointment of any trustee appointed under paragraph (a) or (b); and

(d) may, in such manner as may be prescribed by the Authority, make provision for —

(i) the appointment of one or more new trustees of the policy moneys; and

(ii) the revocation of the appointment of any trustee appointed under paragraph (a) or (b) or pursuant to a provision under sub-paragraph (i).

(13) Subject to subsection (14), on or after the death of the policy owner, the High Court may appoint one or more new trustees of the policy moneys if —

(a) there is no trustee of the policy moneys; or

(b) it is expedient to do so.

(14) No individual shall be appointed a trustee of policy moneys under subsection (12)(a) or (b) or (13), or pursuant to a provision under subsection (12)(d)(i), unless he has attained the age of 18 years; and any appointment of a trustee of policy moneys in contravention of this subsection shall be void.

(15) Where, in respect of a relevant policy issued by a registered insurer, a trust of the policy moneys has been created pursuant to a nomination under subsection (2), the relevant policy shall vest, in

trust for the nominees, in the trustee or trustees of the policy moneys appointed —

(a) under subsection (12)(a) or (b) or (13); or

(b) pursuant to a provision under subsection (12)(d)(i),

5 when the registered insurer has been given notice of the appointment in such manner as may be prescribed by the Authority.

Revocable nomination

10 **49M.**—(1) This section shall not apply to any relevant policy in respect of which any nomination made by the policy owner under section 49L(2) is not revoked in accordance with section 49L(7).

(2) Subject to subsection (3), the policy owner of a relevant policy who has attained the age of 18 years —

15 (a) may nominate any person as a beneficiary of the whole or any portion of the death benefits under the relevant policy; and

(b) if he does so, shall make the nomination and indicate each nominee's portion of the death benefits in such manner as may be prescribed by the Authority.

20 (3) No nomination under subsection (2) shall be valid unless it provides for the disposition of all death benefits under the relevant policy.

(4) A policy owner may revoke a nomination under subsection (2) at any time in such manner as may be prescribed by the Authority.

25 (5) Where the policy owner of a relevant policy has made a nomination under subsection (2), and any nominee dies before the policy owner —

(a) if there is no surviving nominee, the nomination shall be deemed to be revoked;

30 (b) if there is only one surviving nominee, the nomination shall be deemed to be varied by adding, to that surviving nominee's portion of the death benefits under the policy, the deceased nominee's portion of the death benefits under the policy; and

(c) if there is more than one surviving nominee, the nomination shall be deemed to be varied by adding, to each surviving nominee's portion of the death benefits under the policy, a share of the deceased nominee's portion of the death benefits under the policy, such share to be calculated as follows:

$$\frac{A}{B} \times C,$$

where A is that surviving nominee's original portion of the death benefits under the policy (as set out in the nomination);

B is the aggregate of all the surviving nominees' original portions of the death benefits under the policy (as set out in the nomination); and

C is the deceased nominee's portion of the death benefits under the policy.

(6) For the purposes of subsection (5), where the policy owner and one or more of the nominees die in circumstances rendering it uncertain which of them survived the other or others, then in the absence of any order of the court determining otherwise —

(a) such deaths shall be presumed to have occurred in order of seniority; and

(b) accordingly, the younger shall be deemed to have survived the elder.

(7) A nomination made by the policy owner of a relevant policy under subsection (2) shall be deemed to be revoked if —

(a) the policy owner assigns, encumbers or otherwise deals with the relevant policy or any interest under the relevant policy;

(b) after the making of the nomination, the policy owner makes a will in accordance with the Wills Act (Cap. 352) which —

(i) provides for the disposition of all death benefits under the relevant policy; and

(ii) specifies such particulars of the relevant policy as may be prescribed by the Authority; or

(c) after the making of the nomination, the policy owner makes another nomination under subsection (2) or a nomination under section 49L(2).

(8) Notwithstanding anything in the Wills Act, the Intestate Succession Act (Cap. 146) and any rule of law relating to the distribution of estates, but subject to section 57 of the Probate and Administration Act (Cap. 251), where the policy owner of a relevant policy has made one or more nominations under subsection (2) and one or more wills in accordance with the Wills Act —

(a) if the last nomination is not and is not deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the last nomination;

(b) if the last nomination is or is deemed to be revoked, and the last will is not revoked, the death benefits under the relevant policy shall be distributed in accordance with the last will; or

(c) if the last nomination is or is deemed to be revoked, and the last will is revoked, the death benefits under the relevant policy shall be distributed in accordance with the Intestate Succession Act.

(9) Notwithstanding anything in the Intestate Succession Act and any rule of law relating to the distribution of estates, but subject to section 57 of the Probate and Administration Act, where the policy owner of a relevant policy who has made one or more nominations under subsection (2) dies intestate —

(a) if the last nomination is not and is not deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the last nomination; or

(b) if the last nomination is or is deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the Intestate Succession Act.

Register of nominees

49N.—(1) Every registered insurer shall maintain, in such manner as may be prescribed by the Authority and in accordance with such directions as may be issued by the Authority, a register of every person —

- (a) who has been nominated under section 49L(2) or 49M(2) by the policy owner of a relevant policy issued by the registered insurer; and
- (b) in respect of whom the registered insurer has received written notice of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection.

(2) Where —

- (a) any person nominated under section 49L(2) has been registered by a registered insurer under subsection (1);
- (b) the nomination of that person has been revoked under section 49L(7); and
- (c) the registered insurer has received written notice of the revocation of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection,

the registered insurer shall record the revocation of the nomination under section 49L(7) in its register maintained under subsection (1).

(3) Where —

- (a) any person nominated under section 49M(2) has been registered by a registered insurer under subsection (1);
- (b) the nomination of that person has been or is deemed to be revoked; and
- (c) the registered insurer has received written notice of the revocation of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection,

the registered insurer shall record the revocation of the nomination in its register maintained under subsection (1).

Relevant policies issued by co-operative society

49O.—(1) Where the registered insurer of any relevant policy is a co-operative society registered under the Co-operative Societies Act (Cap. 62), and the policy owner of that relevant policy —

(a) has not, before the date of commencement of section 2 of the Insurance (Amendment) Act 2008, made any nomination under section 45(1) of the Co-operative Societies Act in relation to that relevant policy; or

5 (b) has, before that date, revoked every nomination made under section 45(1) of the Co-operative Societies Act in relation to that relevant policy,

nothing in the Co-operative Societies Act shall, on or after that date, apply to that relevant policy or to any share or interest in any policy
10 moneys under that relevant policy.

(2) Where the registered insurer of any relevant policy is a co-operative society registered under the Co-operative Societies Act, and on or after the date of commencement of section 2 of the Insurance (Amendment) Act 2008 the policy owner of that relevant policy —

15 (a) revokes the last subsisting nomination made by him under section 45(1) of the Co-operative Societies Act in relation to that relevant policy; or

(b) makes any nomination under section 49L(2) or 49M(2) in relation to that relevant policy, whether or not there is any
20 subsisting nomination made by him under section 45(1) of the Co-operative Societies Act in relation to that relevant policy,

nothing in the Co-operative Societies Act shall apply, on or after the date the policy owner revokes the last subsisting nomination under
25 section 45(1) of the Co-operative Societies Act or makes the nomination under section 49L(2) or 49M(2), as the case may be, to the relevant policy or to any share or interest in any policy moneys under that relevant policy.

Regulations for purposes of this Part

30 **49P.**—(1) The Authority may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of subsection (1), such regulations may —

35 (a) prescribe anything which may be prescribed by the Authority under this Part; and

(b) make provision for the exercise of the court’s powers under section 20 of the Mental Capacity Act 2008 (Act 22 of 2008) in relation to —

- 5 (i) the making, on a person’s behalf, of any nomination under section 49L(2) or 49M(2); and
- (ii) where any nomination under section 49L(2) or 49M(2) has been made by a person or by the court on behalf of a person, the revoking, on the person’s behalf, of that nomination under section 49L(7) or 49M(4), as the case may be.”.
- 10

Amendment of section 57

3. Section 57 of the Insurance Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

15 “(1) A life policy insuring the life of a person which is issued by a registered insurer shall be void unless —

- (a) the person effecting the insurance has an insurable interest in the life which is insured at the time the insurance is effected;
- 20 (b) the life which is insured is that of —
- (i) the person effecting the insurance;
- (ii) his spouse at the time the insurance is effected;
- (iii) his child or ward under the age of 18 years at the time the insurance is effected; or
- 25 (iv) any other person on whom the person effecting the insurance is, at the time the insurance is effected, wholly or partly dependant; or
- (c) the life policy is one in respect of which all of the conditions referred to in subsection (2A) or (2B) are satisfied.
- 30

(2) Where subsection (1)(a) applies, the policy moneys payable under the life policy shall not exceed the amount of the insurable interest at the time the insurance is effected.

(2A) Section 5 of the Civil Law Act (Cap. 43) and section 62 shall not apply to a life policy, and a life policy shall not be void, if all of the following conditions are satisfied:

- (a) the life which is insured is that of the settlor of a trust;
- 5 (b) the person effecting the insurance is the trustee of the trust;
- (c) any beneficiary of the trust —
 - (i) has an insurable interest in the life of the settlor at the time the insurance is effected; or
 - 10 (ii) is —
 - (A) the settlor's spouse at the time the insurance is effected;
 - (B) the settlor's child or ward under the age of 18 years at the time the insurance is effected;
 - 15 (C) any other person on whom the settlor is, at the time the insurance is effected, wholly or partly dependant; and
- (d) the settlor consents in writing to the effecting of the insurance before it is effected.
- 20

(2B) Section 5 of the Civil Law Act and section 62 shall not apply to a life policy, and a life policy shall not be void, if all of the following conditions are satisfied:

- (a) the life which is insured is that of a beneficiary of a trust (referred to in this subsection as the relevant beneficiary);
- 25 (b) the person effecting the insurance is the trustee of the trust;
- (c) any beneficiary of the trust —
 - (i) has an insurable interest in the life of the relevant beneficiary at the time the insurance is effected;
 - 30 or

(ii) is —

- (A) the relevant beneficiary's spouse at the time the insurance is effected;
- 5 (B) the relevant beneficiary's child or ward under the age of 18 years at the time the insurance is effected; or
- (C) any other person on whom the relevant beneficiary is, at the time the insurance is effected, wholly or partly dependant; and
- 10 (d) the relevant beneficiary consents in writing to the effecting of the insurance before it is effected.

(2C) Subsections (1), (2), (2A) and (2B) shall apply to a life policy regardless of whether the proper law of the life policy is the law of Singapore.”;

- 15 (b) by deleting the words “This section” in subsection (5) and substituting the words “Subsections (1)(a) and (b), (2), (3) and (4)”;
- (c) by inserting, immediately after subsection (5), the following subsection:

20 “(6) Subsections (1)(c), (2A), (2B) and (2C) shall not affect policies issued before the date of commencement of section 3 of the Insurance (Amendment) Act 2008.”.

Amendment of section 58

- 25 **4.** Section 58(1) of the Insurance Act is amended by deleting the words “being under the age of majority” and substituting the words “his age”.

Amendment of section 59

- 5.** Section 59(1) of the Insurance Act is amended by deleting the word “Any” and substituting the words “Subject to section 61, any”.

Repeal and re-enactment of section 61

- 30 **6.** Section 61 of the Insurance Act is repealed and the following section substituted therefor:

“Payment of living benefits or death benefits under life policy or accident and health policy, etc.

61.—(1) In any case where —

- 5 (a) the policy owner of any life policy or accident and health policy has made a nomination under section 49L(2) in respect of the policy;
- (b) that nomination is not revoked in accordance with section 49L(7);
- 10 (c) the registered insurer of the policy has received written notice of that nomination under section 49N(1)(b); and
- (d) any living benefits are payable under the policy,

the registered insurer may make a payment from the living benefits, and shall be discharged from all liability in respect of the payment, to —

- 15 (i) in a case where any trustee of the policy moneys is a person other than the policy owner —
 - (A) that trustee, for the benefit of every nominee under that nomination; or
 - 20 (B) if there is more than one such trustee, any such trustee, for the benefit of every nominee under that nomination; or
- (ii) in any other case —
 - (A) any nominee under that nomination who has attained the age of 18 years;
 - 25 (B) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or
 - (C) the personal representatives of the estate of any nominee under that nomination who is deceased,
 - 30 such payment not exceeding that nominee’s portion of the living benefits.

(2) In any case where the policy owner of any life policy or accident and health policy dies, and death benefits are payable under the policy on his death —

- 5 (a) if subsection (7), (8) or (9) applies in respect of the policy, the registered insurer of the policy may make one or more payments in accordance with the applicable subsection from the death benefits under the policy, without the production of any probate or letters of administration;
- 10 (b) if subsection (10) applies in respect of the policy, the registered insurer of the policy may make one or more payments in accordance with subsections (10) and (11) from the death benefits under all such policies issued by the registered insurer on the deceased's life in respect of which subsection (10) applies, such payment or payments not exceeding in the aggregate the amount prescribed by the Authority for the purposes of this paragraph, without the production of any probate or letters of administration; and
- 15 (c) the registered insurer shall be discharged from all liability in respect of each such payment.

20 (3) If, in any case referred to in subsection (2), estate duty is payable in Singapore on any death benefits referred to in that subsection, the registered insurer may, notwithstanding section 43(2) of the Estate Duty Act (Cap. 96), make one or more payments in accordance with subsections (10) and (11) from the death benefits under all such policies issued by the registered insurer (such payment or payments not exceeding in the aggregate the amount prescribed by the Authority for the purposes of this subsection) without the death benefits having been included in any schedule or certificate referred to in section 43(2) of that Act.

30 (4) If, as a consequence of making any payment under subsection (3), the aggregate of all payments made under that subsection will exceed the amount prescribed by the Authority for the purposes of this subsection, the registered insurer shall, before making the first-mentioned payment, give written notice to the Commissioner of Estate Duties of such particulars as the Commissioner may require.

35 (5) Subsection (3) shall apply in relation to death benefits under policies of which the deceased was not the policy owner at his death as it applies in relation to any death benefits referred to in subsection (2).

(6) Where the payment or payments allowed under subsection (3) on account of any death benefits have been made, the registered insurer may, before paying the balance of such death benefits to one or more relevant persons according to their entitlements, apply the whole or any part of the death benefits to pay any unpaid estate duty payable on the death of the insured.

(7) Where —

(a) the policy owner of a policy referred to in subsection (2) has made a nomination under section 49L(2) in respect of the policy;

(b) that nomination is not revoked in accordance with section 49L(7); and

(c) the registered insurer of the policy has received written notice of that nomination under section 49N(1)(b),

the registered insurer may make a payment under subsection (2)(a) to —

(i) in a case where any trustee of the policy moneys is a person other than the policy owner —

(A) that trustee, for the benefit of every nominee under that nomination; or

(B) if there is more than one such trustee, any such trustee, for the benefit of every nominee under that nomination; or

(ii) in any other case —

(A) any nominee under that nomination who has attained the age of 18 years;

(B) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or

(C) the personal representatives of the estate of any nominee under that nomination who is deceased,

such payment not exceeding that nominee's portion of the death benefits under the policy.

(8) Where —

(a) the policy owner of a policy referred to in subsection (2) has made a nomination under section 49M(2) in respect of the policy;

5 (b) that nomination is not and is not deemed to be revoked; and

(c) the registered insurer of the policy has received written notice of that nomination under section 49N(1)(b),

the registered insurer may make a payment under subsection (2)(a) to —

10 (i) any nominee under that nomination who has attained the age of 18 years;

(ii) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or

15 (iii) the personal representatives of the estate of any nominee under that nomination who dies after the policy owner,

such payment not exceeding that nominee's portion of the death benefits under the policy.

(9) Subject to subsection (7), where —

20 (a) the policy owner of a policy referred to in subsection (2) has made, and has not revoked, a will in accordance with the Wills Act (Cap. 352);

(b) the will —

25 (i) provides for the disposition of all death benefits under the policy; and

(ii) specifies such particulars of the policy as may be prescribed by the Authority under section 49M(7)(b)(ii); and

(c) the registered insurer of the policy has received written notice, signed by the policy owner, of that will in such manner as may be prescribed by the Authority for the purposes of this subsection,

5 the registered insurer may make a payment under subsection (2)(a) to any executor of that will, such payment not exceeding the amount of the death benefits under the policy.

(10) Subject to subsection (11), where —

10 (a) the policy owner of a policy referred to in subsection (2) or (3) has not made —

(i) any nomination under section 49L(2) or 49M(2) in respect of the policy; or

(ii) any will which —

15 (A) provides for the disposition of all death benefits under the policy; and

(B) specifies such particulars of the policy as may be prescribed by the Authority under section 49M(7)(b)(ii);

20 (b) the registered insurer of a policy referred to in subsection (2) or (3) has not received —

(i) any written notice referred to in section 49N(1)(b) of any nomination made under section 49L(2) or 49M(2) in respect of the policy; or

25 (ii) any written notice referred to in subsection (9)(c) of any will providing for the disposition of all death benefits under the policy; or

(c) there exist, in respect of a policy referred to in subsection (2) or (3), such other circumstances as the Authority may prescribe,

30 the registered insurer of the policy may make a payment under subsection (2)(b) or (3) to any proper claimant from the death benefits under the policy.

(11) Where subsection (10) applies, and the registered insurer referred to in that subsection receives 2 or more different claims for payment in accordance with that subsection —

- 5 (a) each such claim shall be paid in the same order of priority;
and
- (b) the amount payable under subsection (2)(b) or (3), as the case may be, in respect of any such claim shall be calculated as follows:

$$\frac{A}{B} \times C,$$

10 where A is the amount which would have been payable in respect of that claim had it been paid in full;

B is the total amount which would have been payable in respect of all such claims had they been paid in full; and

15 C is the amount prescribed by the Authority for the purposes of subsection (2)(b) or (3), as the case may be.

(12) In this section, unless the context otherwise requires —

“policy owner” includes a part owner of a policy;

“proper claimant” means a person who —

20 (a) claims to be entitled to payment under subsection (2)(b) or (3) as executor of the deceased; or

(b) claims to be entitled to payment under subsection (2)(b) or (3) (whether for his own benefit or not) and is the widower, widow, parent, child, brother, sister, nephew or
25 niece of the deceased;

“relevant person” means the personal representative of the deceased or, where there is none, any proper claimant.

(13) In deducing any relationship for the purposes of the definition of “proper claimant” in subsection (12), an illegitimate person shall
30 be treated as the legitimate child of his actual parents.

(14) For the purposes of this section, where any nomination has been or is deemed to be varied, any reference to a nominee under that

nomination shall be construed as a reference to a nominee under that nomination as varied.”.

Amendment of First Schedule

7. The First Schedule to the Insurance Act is amended —

5 (a) by inserting, immediately after paragraph 2, the following paragraph:

“2A. “Child” means a legitimate child, an illegitimate child, a stepchild or a child adopted in accordance with any written law relating to the adopting of children.”;

10 (b) by inserting, immediately after paragraph 4E, the following paragraphs:

“4F. “Death benefits” means policy moneys which are paid out on the death of the insured.

15 4G. “Living benefits” means policy moneys which are paid out before the death of the insured.”; and

(c) by deleting sub-paragraph (2) of paragraph 5 and substituting the following sub-paragraph:

“(2) An accident and health policy that provides for the payment of policy moneys on the death of a person is not a life policy.”.

20 **Related amendments to Administration of Muslim Law Act**

8. Section 111 of the Administration of Muslim Law Act (Cap. 3) is amended —

25 (a) by inserting, immediately after the words “by will” in subsection (1), the words “, or by any nomination under section 49M(2) of the Insurance Act (Cap. 142),”;

(b) by inserting, immediately after paragraph (a) of subsection (2), the following paragraph:

“(aa) the provisions of the Insurance Act, other than sections 49M and 61 thereof;”;

30 (c) by inserting, immediately after the words “by will” in the section heading, the word “, etc.,”.

Related amendments to Central Provident Fund Act

9. The Central Provident Fund Act (Cap. 36) is amended —

(a) by inserting, immediately after subsection (15) of section 15, the following subsection:

5 “(15A) Section 73 of the Conveyancing and Law of Property Act (Cap. 61) and sections 49L and 49M of the Insurance Act (Cap. 142) shall not apply to any annuity purchased with the minimum sum.”;

(b) by inserting, immediately after subsection (2) of section 24, the following subsection:

10 “(2A) Section 73 of the Conveyancing and Law of Property Act (Cap. 61) and section 49L of the Insurance Act (Cap. 142) shall not apply to —

15 (a) any policy of insurance which is an investment made by a member of the Fund under any scheme in accordance with any regulations made under section 77(1)(n) the proceeds or benefits (or any part thereof) of which the member is obliged to repay into the Fund; and

20 (b) any proceeds or benefits of such a policy of insurance which the member is obliged to repay into the Fund.”; and

(c) by inserting, immediately after the words “(Cap. 61)” in section 48A(2), the words “and section 49L of the Insurance Act (Cap. 142)”.

Related amendments to Conveyancing and Law of Property Act

10. Section 73 of the Conveyancing and Law of Property Act (Cap. 61) is amended —

30 (a) by inserting, immediately after the word “expressed” wherever it appears in subsection (1), the words “, before the date of commencement of section 10 of the Insurance (Amendment) Act 2008,”; and

(b) by deleting the words “immediately on its being effected” in subsection (4).

Related amendments to Co-operative Societies Act

11. Section 45 of the Co-operative Societies Act (Cap. 62) is amended —

5 (a) by deleting the word “A” in subsection (1) and substituting the words “Subject to subsection (3), a”;

(b) by inserting, immediately after subsection (2), the following subsections:

10 “(3) Where a society is the insurer of any relevant policy, and a member of the society is the policy owner of that relevant policy, the member shall not be entitled, on or after the date of commencement of section 11 of the Insurance (Amendment) Act 2008, to nominate under subsection (1) any person to whom on the death of the member the society may transfer the member’s share or interest in any policy moneys under that relevant policy.

15 (4) In this section —

“policy owner” and “policy moneys” have the same meanings as in the First Schedule to the Insurance Act (Cap. 142);

20 “relevant policy” has the same meaning as in section 49K of the Insurance Act.”.

Related amendments to Mental Capacity Act 2008

12. The Mental Capacity Act 2008 (Act 22 of 2008) is amended —

25 (a) by deleting subsection (9) of section 13 and substituting the following subsection:

“(9) Notwithstanding anything in the lasting power of attorney, a donee authorised to make decisions about P’s property and affairs may not —

30 (a) make, on P’s behalf, any nomination under section 49L(2) or 49M(2) of the Insurance Act (Cap. 142);

(b) where any nomination under section 49L(2) or 49M(2) of the Insurance Act has been made by P or by the court on P’s behalf, revoke, on P’s behalf, that

nomination under section 49L(7) or 49M(4), as the case may be, of that Act; or

(c) execute a will for P.”;

(b) by inserting, immediately after paragraph (h) of section 23(1),
5 the following paragraphs:

“(ha) the making, on P’s behalf, of any nomination under section 49L(2) or 49M(2) of the Insurance Act (Cap. 142);

(hb) where any nomination under section 49L(2) or
10 49M(2) of the Insurance Act has been made by P or on P’s behalf, the revoking, on P’s behalf, of that nomination under section 49L(7) or 49M(4), as the case may be, of that Act;”;

(c) by inserting, immediately after paragraph (a) of section 25(3),
15 the following paragraphs:

“(aa) making, on P’s behalf, of any nomination under section 49L(2) or 49M(2) of the Insurance Act (Cap. 142);

(ab) where any nomination under section 49L(2) or
20 49M(2) of the Insurance Act has been made by P or by the court on P’s behalf, revoking, on P’s behalf, of that nomination under section 49L(7) or 49M(4), as the case may be, of that Act;”.

Saving and transitional provision

25 **13.** Section 6 shall not apply to any case where a registered insurer has made any payment under section 61 of the Insurance Act in force immediately before the date of commencement of section 6, and section 61 of the Insurance Act in force immediately before that date shall continue to apply to that case as if section 6 had not been enacted.

EXPLANATORY STATEMENT

This Bill seeks to amend the Insurance Act (Cap. 142) to introduce a new statutory framework for the nomination of beneficiaries under a relevant life policy or accident and health policy which is effected by the policy owner on his own life (relevant policy). The new statutory framework does not apply to any life policy or accident and health policy —

- (a) in respect of which any trust has been created under section 73 of the Conveyancing and Law of Property Act (Cap. 61); or
- (b) which is an annuity purchased with the minimum sum under section 15(6C) of the Central Provident Fund Act (Cap. 36).

The Bill also seeks to —

- (a) make related amendments to sections 59 and 61 of, and the First Schedule to, the Insurance Act, and to the Administration of Muslim Law Act (Cap. 3), the Central Provident Fund Act, the Conveyancing and Law of Property Act, the Co-operative Societies Act (Cap. 62) and the Mental Capacity Act 2008 (Act 22 of 2008);
- (b) amend section 57 to enable a life policy insuring the life of a settlor or beneficiary of a trust to be effected by the trustee of the trust, if certain conditions are satisfied; and
- (c) amend section 58(1) to remove the reference therein to “age of majority”, and to provide instead that a person over the age of 10 years shall not, by reason only of his age, lack the capacity to enter into a contract of insurance.

Clause 1 relates to the short title and commencement.

Clause 2 inserts a new Part IIIC (comprising new sections 49K to 49P) to provide for the new statutory framework.

The new section 49K defines certain terms used in the new Part IIIC.

The new section 49L enables the policy owner of a relevant policy to nominate one or more of his spouse and children as the beneficiary or beneficiaries under the policy, and to thereby create a trust of the policy moneys in favour of the nominee or nominees, if certain conditions specified in the section are satisfied. A nomination made under the section, and the trust thereby created, may be revoked only with the prior written consent to the revocation of —

- (a) in a case where any trustee of the policy moneys is a person other than the policy owner —
 - (i) that trustee or, if there is more than one such trustee, any such trustee; or
 - (ii) each nominee who has attained the age of 18 years, and a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years; and

- (b) in any other case —
- (i) each nominee who has attained the age of 18 years; and
 - (ii) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years.

The new section 49M provides for the policy owner of a relevant policy to nominate any person as a beneficiary of the whole or any portion of the death benefits under the policy, if certain conditions specified in the section are satisfied. No trust is created by a nomination under this section, even if the nominee is the spouse or a child of the policy owner. The policy owner may, at any time, revoke a nomination made under the section.

The new section 49N requires every registered insurer to maintain and update a register of every person who has been nominated, under the new section 49L(2) or 49M(2), by the policy owner of a relevant policy issued by the registered insurer as a beneficiary under the policy.

The new section 49O states the circumstances in which the Co-operative Societies Act (Cap. 62) will cease to apply to a relevant policy issued by a co-operative society registered under that Act. On the occurrence of any of those circumstances, the nomination of beneficiaries under a relevant policy will be governed by the new statutory framework under the Insurance Act (Cap. 142), and not the nomination framework under the Co-operative Societies Act.

The new section 49P provides for the making of regulations for the purposes of the new Part IIC.

Clause 3 amends section 57 to enable a life policy insuring the life of a settlor or beneficiary of a trust to be effected by the trustee of the trust, if certain conditions are satisfied.

Clause 4 amends section 58(1) to remove the reference therein to “age of majority”, and to provide instead that a person over the age of 10 years shall not, by reason only of his age, lack the capacity to enter into a contract of insurance.

Clause 5 makes a technical amendment to section 59(1) that is related to the repeal and re-enactment of section 61 (by clause 6). Section 59(1) is to be read subject to the re-enacted section 61.

Clause 6 repeals and re-enacts section 61 to restate how a registered insurer of a life policy or an accident and health policy is to make payment of the living benefits or death benefits under the policy upon the introduction of the new statutory framework. A registered insurer may make one or more payments in accordance with that section from the death benefits under all such policies issued by the registered insurer on a deceased’s life without the production of any probate or letters of administration and, if estate duty is payable in Singapore on any of those death benefits, without those death benefits having been included in any schedule or certificate referred to in section 43(2) of the Estate Duty Act (Cap. 96).

Clause 7 amends the First Schedule to define the terms “Child”, “Death benefits” and “Living benefits” which are used in the new Part IIC and section 61 (to be inserted

by clauses 2 and 6, respectively). The clause also amends paragraph 5 of the First Schedule to clarify that an accident and health policy that provides for the payment of policy moneys on the death of a person is not a life policy.

Clause 8 amends section 111 of the Administration of Muslim Law Act (Cap. 3) to provide that —

- (a) no Muslim domiciled in Singapore is to dispose of his property by any nomination under the new section 49M(2) of the Insurance Act (Cap. 142) (to be inserted by clause 2), except in accordance with the provisions of and subject to the restrictions imposed by the school of Muslim law professed by him; and
- (b) nothing in section 111 of the Administration of Muslim Law Act will affect the provisions of the Insurance Act other than the new sections 49M and 61 thereof (to be inserted by clauses 2 and 6, respectively).

Clause 9 makes the following amendments to the Central Provident Fund Act (Cap. 36):

- (a) section 15 of that Act is amended by the insertion of a new subsection (15A) to expressly provide that section 73 of the Conveyancing and Law of Property Act (Cap. 61) and the new sections 49L and 49M of the Insurance Act (to be inserted by clause 2) will not apply to any annuity purchased with the minimum sum;
- (b) section 24 of that Act is amended by the insertion of a new subsection (2A) to expressly provide that section 73 of the Conveyancing and Law of Property Act (Cap. 61) and the new section 49L of the Insurance Act (Cap. 142) (to be inserted by clause 2) will not apply to —
 - (i) any policy of insurance which is an investment made by a member of the Central Provident Fund under any scheme in accordance with any regulations made under section 77(1)(n) of the Central Provident Fund Act (Cap. 36) the proceeds or benefits (or any part thereof) of which the member is obliged to repay into the Central Provident Fund; and
 - (ii) any proceeds or benefits of such a policy of insurance which the member is obliged to repay into the Central Provident Fund; and
- (c) section 48A(2) of that Act is amended to provide that the new section 49L of the Insurance Act (to be inserted by clause 2) will not apply to any policy of insurance issued under the Dependants' Protection Insurance Scheme established and maintained by the Central Provident Fund Board under section 41 of the Central Provident Fund Act.

Clause 10 amends subsection (1) of section 73 of the Conveyancing and Law of Property Act to restrict the application of that section to a policy of assurance effected by any person on his own life and expressed, before the date of commencement of the clause, to be for the benefit of his spouse or of his children or of his spouse and children or any of them. As a trust of such a policy and of the moneys payable under the policy may be created under section 73(1) of that Act some time after that policy is effected,

the clause also amends section 73(4) of that Act to delete the reference therein to such a policy vesting in trust “immediately on its being effected”.

Clause 11 amends section 45 of the Co-operative Societies Act (Cap. 62) to provide that where a co-operative society is the insurer of any relevant policy, and a member of the co-operative society is the policy owner of that relevant policy, the member will not be entitled, on or after the date of commencement of the clause, to nominate under section 45(1) of that Act any person to whom on the death of the member the society may transfer the member’s share or interest in any policy moneys under that relevant policy.

Clause 12 amends section 23(1) of the Mental Capacity Act 2008 (Act 22 of 2008) to expressly include, as matters within the powers under section 20 of that Act, the following matters concerning the property and affairs of a person (“P”) who lacks capacity in relation to those matters:

- (a) the making, on P’s behalf, of any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (to be inserted by clause 2); and
- (b) where any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (to be inserted by clause 2) has been made by P or on P’s behalf, the revoking, on P’s behalf, of that nomination under the new section 49L(7) or 49M(4), as the case may be, of the Insurance Act (to be inserted by clause 2).

The clause also makes the following related amendments to the Mental Capacity Act 2008 (Act 22 of 2008):

- (a) section 13(9) of the Mental Capacity Act 2008 is deleted and substituted, so as to provide that notwithstanding anything in a lasting power of attorney made by P, the donee of the lasting power of attorney may not —
 - (i) make, on P’s behalf, any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (Cap. 142) (to be inserted by clause 2); or
 - (ii) where any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (to be inserted by clause 2) has been made by P or by the court on P’s behalf, revoke, on P’s behalf, that nomination under the new section 49L(7) or 49M(4), as the case may be, of the Insurance Act (to be inserted by clause 2); and
- (b) section 25(3) of the Mental Capacity Act 2008 is amended, so as to provide that a deputy appointed by the court under section 20(2)(b) of that Act may not be given powers with respect to —
 - (i) the making, on P’s behalf, of any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (to be inserted by clause 2); or
 - (ii) where any nomination under the new section 49L(2) or 49M(2) of the Insurance Act (to be inserted by clause 2) has been made by P or by the court on P’s behalf, the revoking, on P’s behalf, of that nomination under the new section 49L(7) or 49M(4), as the case may be, of the Insurance Act (to be inserted by clause 2).

Clause 13 is a saving and transitional provision.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
